

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

WILLIAM EVERETT	§	
v.	§	CIVIL ACTION NO. 5:05cv50
WARDEN JOHN RUPERT, ET AL.	§	

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Plaintiff William Everett, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights. This Court ordered that the matter be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Everett complained of the conditions of his confinement in the Texas Department of Criminal Justice, Institutional Division. On April 21, 2005, the Magistrate Judge ordered him to pay the statutory filing fee or to submit an application for leave to proceed *in forma pauperis* which was accompanied by a certified inmate trust account statement. The Magistrate Judge also ordered him to file an amended complaint setting out his claims with more factual specificity.

Everett received copies of these orders on April 26, 2005, but did not respond in any way. On June 8, 2005, the Magistrate Judge issued a Report recommending that Everett's lawsuit be dismissed without prejudice for failure to prosecute or to obey an order of the Court. Everett received a copy of this Report on June 14, 2005, but filed no objections thereto; accordingly, he is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-

to proposed factual findings and legal conclusions accepted and adopted by the district court.
Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge and has determined that this Report is correct. It is accordingly

ORDERED that the Report and the Initial Report of the Magistrate Judge are together ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled civil action be and hereby is DISMISSED without prejudice for failure to prosecute or to obey an order of the Court. Finally, it is

ORDERED that any and all motions which may be pending in this cause are hereby DENIED.

SIGNED this 14th day of July, 2005.

A handwritten signature in black ink, appearing to read "David Folsom", is written over a horizontal line.

DAVID FOLSOM
UNITED STATES DISTRICT JUDGE